

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COGENRA SOLAR, INC., et al.,

Plaintiffs,

v.

SOLARCITY CORPORATION, et al.,

Defendants.

Case No. [16-cv-05481-VC](#)

**ORDER GRANTING IN PART
MOTION TO DISMISS**

The state law tort claims are not preempted by the California Uniform Trade Secrets Act. *See, e.g., Angelica Textile Services, Inc. v. Park*, 220 Cal. App. 4th 495, 506 (2013). The federal trade secret claims are viable to the extent they are based on misappropriations (including continuing misappropriations) that took place after the enactment of the federal statute.

However, consistent with the discussion at today's hearing:

- Khosla Ventures is dismissed as a plaintiff because the First Amended Complaint does not adequately allege that its injuries are derived from anything other than the injuries to Cogenra. *See, e.g., Rawoof v. Texor Petroleum Co.*, 521 F.3d 750, 761 (7th Cir. 2008); *Shell Petroleum, N.V. v. Graves*, 709 F.2d 593, 595 (9th Cir. 1983).
- The promissory estoppel claim is dismissed for failure to allege reasonable reliance.
- The intentional interference claim is dismissed because the facts alleged in the First Amended Complaint would preclude a finding of intent.
- The parties must comply with the instructions provided at the hearing regarding

improperly sealed material. *See Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092 (9th Cir. 2016). As discussed, the parties must refile the First Amended Complaint and briefs on the motion to dismiss either without sealed content or accompanied by new sealing requests by Friday, June 2, 2017. The pending discovery letter and accompanying material is struck and must be refiled, seeking only to seal legitimately sealable material, by Wednesday, May 31, 2017. Abuse of the sealing rules will be sanctioned going forward.

Dismissal is with leave to amend. Any amended complaint must be filed within 14 days of this ruling.

IT IS SO ORDERED.

Dated: May 25, 2017



VINCE CHHABRIA
United States District Judge